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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,338	03/10/2004	Jon P. Yarbrough	60,583-004	4307
27305	7590	09/30/2009	EXAMINER	
HOWARD & HOWARD ATTORNEYS PLLC			PANDYA, S/UNIT	
450 West Fourth Street			ART UNIT	PAPER NUMBER
Royal Oak, MI 48067			3714	
MAIL DATE		DELIVERY MODE		
09/30/2009		PAPER		

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/797,338

Filing Date: March 10, 2004

Appellant(s): YARBROUGH ET AL.

Richard H. Newman
Reg. No. 41,222
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed June 19, 2009 appealing from the Office action mailed June 16, 2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6398645	Yoseloff	06-2002
5935002	Falciglia	08-1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4-22, 25-32, 34-46, 49-51 & 54-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoseloff (US Patent 6,398,645) in view of Falciglia (US Patent 5,935,002).

Claim 1: Yoseloff discloses generating an end game result of bingo-type game (col. 5-6:65-5, 8-9: 62-25). Yoseloff also discloses displaying the end game indicative of whether a player has won or lost the game (figure 2, col. 9: 1-25), and displaying an award representation of the game result on a mechanical device (col. 10:

3-14, wherein the video screen is located on a mechanical device, since it contains mechanical parts, thus the result are displayed on a mechanical device). However, Yoseloff does not disclose displaying the end game result represented by a mechanical technological aid instead Yoseloff teaches of video reels.

However, Falciglia, an analogues art, teaches of mechanical technological aid at an electronic Bingo playing station, wherein mechanical technological aid includes mechanical reels rotatable around at least one axis used to display game means (col. 3: 28-31 & 11: 25-30). Thus, it would have been obvious for one with ordinary skill in the art at the time of the invention to have modified Yoseloff to include mechanical technological aid at an electronic play station as taught by Falciglia, to reduce user manipulations and tampering with the device and thus making the game fair for all of the participants and also adding moving element features to the game machine which adds an extra entertainment element for the players to enjoy (col. 2: 5-10).

Claims 4 & 51: Yoseloff discloses generating the result of the bingo-type game comprising of creating multiple different bingo cards for multiple players competing against each other (col. 5-6: 65-7, 12: 24-26).

Claims 5-6 & 25: Yoseloff discloses generating at least one called number shared in common by multiple players, prior to generating the end game result of the bingo-type game, and wherein the numbers are reported to the gaming stations (col. 6: 9-18, 12: 11-29).

Claims 7-9 & 26-28: Yoseloff discloses generating at least one called number comprises generating a plurality of called numbers (col. 6: 9-18, it is well known in the art to generate the numbers either all at the same time or in succession).

Claims 10, 12, 15-16, 18 & 29: Yoseloff discloses generating the end game result comprises of determining whether the called numbers establish a game-ending pattern or an interim pattern on any of the bingo cards (figure 2 discloses different game ending patterns, col. 9: 15-28).

Claims 11 & 17: Yoseloff discloses displaying the representation of the result on the gaming station, in response to determining whether the game-ending pattern has been established on the bingo card (figures 1 & 2).

Claims 13, 14, 19-20 & 30-31: Yoseloff discloses awarding prizes in response to determining the game-ending patterns or interim pattern established on the bingo cards. Yoseloff awards points or credits for the most bingo combinations (figure 2). However, Yoseloff fails to disclose daubing for the patterns in the game.

Falciglia teaches occurrence of daubing that may be performed manually or automatically by the players at the playing station, using a suitable interface (col. 13: 50-56). It would have been obvious to one having ordinary skill in the art at the time the applicant's invention was made to have modified Yoseloff's gaming machine to include the process of manual daubing as taught by Falciglia, thus by implementing daubing in the gaming machine, the players are actively participating in the bingo-type game and active participation creates an exciting playing environment for all participating players.

Claim 21: Yoseloff discloses determining whether plurality of players are playing the bingo game (col. 6: 30-40)

Claims 22 & 49-50: Yoseloff discloses generating the result of the bingo-type game comprising of creating a bingo card (col. 5-6:65-5, 8-9: 62-25). Yoseloff discloses generating at least one called number comprises generating a plurality of called numbers (col. 6: 9-18). Yoseloff discloses determining whether the called numbers establish a game-ending pattern or an interim pattern on any of the bingo cards (figure 2 discloses different game ending patterns, col. 9: 15-28). Yoseloff discloses displaying the representation of the result on the gaming station, in response to determining whether the game-ending pattern has been established on the bingo card (figures 1 & 2). Yoseloff also discloses displaying the end game indicative of whether a player has won or lost the game (figure 2, col. 9: 1-25), and also displays an award representation of the game result on a mechanical device (col. 10: 3-14, wherein the video screen is located on the a mechanical device, since it contains mechanical parts, thus the result are displayed on a mechanical device).

However, Falciglia, an analogues art, teaches of mechanical technological aid at an electronic Bingo playing station, wherein mechanical technological aid includes mechanical reels rotatable around at least one axis used to display game means (col. 3: 28-31 & 11: 25-30). Thus, it would have been obvious for one with ordinary skill in the art at the time of the invention to have modified Yoseloff to include mechanical technological aid at an electronic play station as taught by Falciglia, to reduce user manipulations and tampering with the device and thus making the game fair for all of the

participants and also adding moving element features to the game machine which adds an extra entertainment element for the players to enjoy (col. 2: 5-10).

Claims 32 & 34-46: Yoseloff substantially discloses the invention as claimed (see rejection above), however, Yoseloff does not explicitly disclose a server to generate all the called numbers and said server distributing the numbers to all of the game machines connected through the a network. Yoseloff discloses linking game machines together (col. 12: 25-27) which requires network and a server to distribute all of the game details through out all of the linked machines, thus Yoseloff implicitly discloses a server to generate all the called numbers and said server distributing the numbers to all of the game machines.

Claim 54: Yoseloff discloses creating multiple different bingo cards for multiple players competing against each other, wherein the players are located at different gaming terminals and therefore the cards are created at different terminals (col. 5-6: 65-7, 12: 24-26).

Claim 55: Yoseloff substantially discloses the invention as claimed however fails to disclose displaying the end game result represented by a mechanical technological aid, instead Yoseloff teaches of video reels. However, video reels are equivalent structure that is known in the art. Therefore, these two display devices are art recognized equivalents at the time the invention was made, one of the ordinary skill in art would have found it obvious to substitute video reels instead to mechanical reel/die to reduce user manipulations and tampering with the device and thus making the game fair for all of the participants (col. 2: 5-10).

(10) Response to Argument

The appellant argues that Yoseloff is completely silent with respect to displaying the end game result represented by a mechanical technological aid, and that Yoseloff instead teaches video reels; the examiner respectfully agrees, however, in response to appellant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In the rejection above, the examiner has point out that Falciglia remedies the deficiencies of Yoseloff. Falciglia teaches a Bingo like game, which uses slot machine wheels, which rotates about an axis, to display randomly selected numbers to the players (see col. 3: 26-31). Thus, the combination of Yoseloff and Falciglia, when used together, reads on all the limitations of the claims.

In response to appellant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Yoseloff discloses an Electronic Video Bingo with Multi-card playing ability, and Falciglia teaches

a system and method of playing a Bingo like game, thus, both references are directed towards playing of a Bingo game. Furthermore, Yoseloff, as recited above, discloses a video Bingo game, and is thus lacking the mechanical technological aid to display the end game result, however Falciglia, fulfills that deficit in column 3, lines 26-31 and in column 11, lines 25-30, wherein Falciglia teaches of Bingo like game, which uses slot machine wheels, which rotates about an axis, to display randomly selected numbers to the players. Thus it would have been obvious for one with ordinary skill in the art at the time of the invention to have modified Yoseloff to include mechanical technological aid at an electronic play station as taught by Falciglia, to reduce user manipulations and tampering with the device and thus making the game fair for all of the participants and also adding moving element features to the game machine which adds an extra entertainment element for the players to enjoy.

Regarding the appellant's arguments that Yoseloff only discloses video display, and there are no description whatsoever of one or more spinning members rotatable about an axle, the examiner agrees with the appellant. However, as recited above, the claims are rejected not with individual references, but as a combination of Yoseloff and Falciglia as whole. Yoseloff discloses, as recited in the rejection above, generating an end game result of bingo-type game and displaying the result and also whether a player has won or lost the game. Falciglia teaches mechanical technological aid at an electronic play station, wherein mechanical technological aid includes mechanical reels rotatable around at least one axis used to display game means. Thus the combination of Yoseloff and Falciglia, when taken as a whole, read on all the claimed limitations.

Regarding the appellant's arguments that Falciglia merely endeavors to simulate the "mechanical" spinning of game symbols, as it is clearly referring to a video representation of spinning symbols, the examiner respectfully disagrees. Falciglia, in figure 8, teaches of game play event processor which is used for wheel spins on the gaming machine (see figure below, box 196).

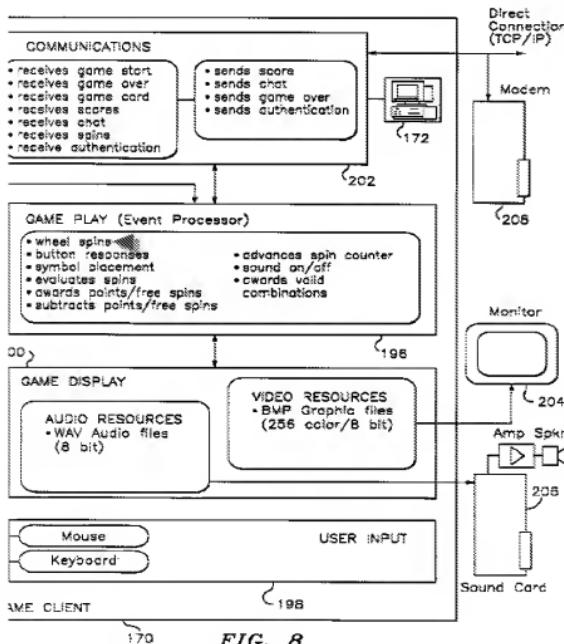


FIG. 8

Furthermore, the wheel spin is located within the Event processor, thus is being controlled by an event processor to spin the actual wheels upon player's request or game play, and not located in the game display, which is where it would have been, if

the reels were mere video simulation. Additionally, in column 3, lines 26-31 and in column 11, lines 25-30, Falciglia clearly states of a Bingo like game, which uses slot machine wheels or mechanical wheels, which rotates about an axis, to display randomly selected numbers to the players. Thus, Yoseloff and Falciglia, combination when taken as a whole, reads on all the claimed limitations.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Sunit Pandya/

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